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REBECCA CASTILLO

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8 San Francisco, CA 94108

9 *Attorneys for Defendant*
MEINEKE CAR CARE CENTERS, LLC

10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

13 REBECCA CASTILLO, an individual,
14 Plaintiff,

15 v.

16 MEINEKE CAR CARE CENTERS,
17 LLC, a North Carolina corporation; and
DOES 1-10, inclusive,

18 Defendants.
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CASE NO.: 2:18-cv-08878-ODW-RAO
CONSENT DECREE

1 **CONSENT DECREE**

2 1. This Consent Decree is entered into as of the Effective Date, as defined
3 below in Paragraph 9, by and between the following parties: Plaintiff Rebecca
4 Castillo ("Plaintiff"), and Defendant Meineke Car Care Centers, LLC ("Defendant").
5 Plaintiff and Defendant shall hereinafter be collectively referred to as the "Parties"
6 for the purposes and on the terms specified herein.

7 **RECITALS**

8 2. On or about August 30, 2018, Plaintiff filed a lawsuit against Defendant
9 in the Superior Court of California, County of Los Angeles, entitled *Rebecca Castillo*
10 *v. Meineke Car Care Centers, LLC*, Case No. KC070574. On October 15, 2018,
11 Defendant removed the lawsuit to the United States District Court for the Central
12 District of California, Case No. 2:18-cv-08878-ODW-RAO (the "Action"). Plaintiff
13 alleged that Defendant's website: www.meineke.com (the "Website") is not fully
14 accessible to individuals with disabilities in violation of California's Unruh Civil
15 Rights Act, California Civil Code § 51 *et seq.* ("Unruh Civil Rights Act") and the
16 Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* ("ADA").

17 3. Defendant expressly denies that the Website violates any federal, state
18 or local law, including the Unruh Civil Rights Act and the ADA, and it denies any
19 other wrongdoing or liability whatsoever. By entry into this Consent Decree,
20 Defendant does not admit any wrongdoing.

21 4. This Consent Decree resolves, settles, and compromises all issues
22 between the Parties in the Action.

23 5. This Consent Decree is entered into by Plaintiff, individually, but is
24 intended to inure to the benefit of vision impaired individuals.

25 **JURISDICTION**

26 6. Plaintiff alleges that Defendant is a private entity that owns and/or
27 operates the Website which is available through the internet to personal computers,
28 laptops, mobile devices, tablets, and other similar technology.

1 7. This Court has jurisdiction over this action under 28 U.S.C. § 1332.
2 The Parties agree that for purposes of the Action and this Consent Decree venue is
3 appropriate.

4 AGREED RESOLUTION

5 8. Plaintiff and Defendant agree that it is in the Parties' best interest to
6 resolve the Action on mutually agreeable terms without further litigation.
7 Accordingly, the Parties agree to the entry of this Consent Decree without trial or
8 further adjudication of any issues of fact or law raised in Plaintiff's Complaint. In
9 resolution of this action, the Parties hereby AGREE to the following:

10 DEFINITIONS

11 9. Effective Date means the date on which this Consent Decree is entered
12 on the Court's Docket Sheet following approval by the Court.

13 10. Reasonable Efforts means, with respect to a given goal or obligation,
14 the efforts that a commercially reasonable person or entity in Defendant's position
15 would use to achieve that goal or obligation. Any disagreement by the Parties as to
16 whether Defendant has used Reasonable Efforts as provided for under this Consent
17 Decree shall be subject to the dispute resolution procedures set forth in Paragraph 19
18 of this Consent Decree. Reasonable Efforts shall be interpreted so as to not require
19 Defendant to undertake efforts the cost, difficulty or impact on Defendant's Website
20 of which could constitute an undue burden, as defined in Title III of the ADA but as
21 applied solely to Defendant's Website - as though the Website were a standalone
22 business entity, or which efforts could result in a fundamental alteration in the manner
23 in which Defendant operates its Website - or the primary functions related thereto, or
24 which could result in a loss of revenue or traffic on its Website related operations.

25 RELEASE OF CLAIMS

26 11. For and in consideration of the promises, commitments and
27 undertakings set forth in this Consent Decree, and for other good and valuable
28 consideration, the receipt of which is hereby acknowledged by Plaintiff, Plaintiff, on

1 her own behalf, and on behalf of any of her family members, employees, partners,
2 grantees, agents, representatives, heirs, executors, administrators, devisees, trustees,
3 successors, assigns, assignors, attorneys, and any other entities in which Plaintiff has
4 an interest and all of their respective affiliates, and all persons acting directly or
5 indirectly on behalf of any of the foregoing (collectively, the "Releasing Parties"),
6 hereby agrees to release and forever discharge the Defendant, entities the Defendant
7 or any of its affiliates may acquire, purchase, or absorb in the future, and joint
8 ventures now existing or hereafter created by the Defendant or any of its affiliates,
9 each and all of their respective direct and indirect past, present, and future parent
10 entities, subsidiaries, divisions, affiliates, legal successors, and predecessors
11 (including entities they have acquired, purchased, or absorbed, and entities for which
12 they have purchased substantially all of the assets), and each of all of their respective
13 direct and indirect owners, management, controlling parties, entities under common
14 control, officers, members, partners, directors, servants, agents, employees,
15 incorporators, shareholders, investors, managers, principals, investment advisors,
16 consultants, employees, representatives, attorneys, accountants, lenders,
17 underwriters, insurers, vendors, service providers, website developers, and website
18 hosting servers (collectively, the "Released Parties") from any and all liabilities,
19 causes of action, charges, complaints, suits, claims, actions, liabilities, obligations,
20 costs, losses, damages, lawsuits, losses, rights, judgments, fees, costs, expenses,
21 bonds, bills, penalties, fines, and all other legal responsibilities of any form
22 whatsoever, whether known or unknown, including any monetary, injunctive or
23 declaratory relief relating thereto or for reimbursement of attorneys' fees, costs and
24 expenses, whether presently existing or arising in the future, whether suspected or
25 unsuspected, whether fixed or contingent, including those arising under any theory
26 of law, whether common, constitutional, statutory or other, of any jurisdiction,
27 foreign or domestic, whether in law or in equity arising out of or relating to: (i) the
28 Website and the Action; (ii) any acts or omissions by the Releasing Parties occurring,

1 or conditions existing, prior to the Effective Date; and (iii) any costs, attorneys' or
2 expert fees, or expenses incurred or to be incurred by the Releasing Parties in
3 connection with the subject matter hereof (collectively, the "Released Claims"). The
4 Releasing Parties hereby acknowledge and agree that, except as expressly set forth
5 in this Agreement, the Released Parties have no other liabilities or obligations, of any
6 kind or nature, owed to the Releasing Parties, in connection with or relating to the
7 Released Claims or otherwise.

8 12. Plaintiff hereby expressly and knowingly waives and relinquishes any
9 and all rights that she has or might have relating to the Released Claims under
10 California Civil Code § 1542 (and under any and all other statutes or common law
11 principles of similar effect) which reads as follows:

12 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
13 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
14 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
15 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
16 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
17 PARTY.

18 13. Plaintiff acknowledges that she may hereafter discover facts different
19 from, or in addition to, those which she now believes to be true with respect to the
20 Released Claims above. On her own behalf and on behalf of all of the Releasing
21 Parties, Plaintiff agrees that the foregoing release and waiver shall be and remain
22 effective in all respects notwithstanding such different or additional facts or
23 discovery thereof, and that this Agreement contemplates the extinguishment of all
24 such Released Claims. By executing this Agreement, Plaintiff acknowledges the
25 following: (a) she is represented by counsel of her own choosing; (b) she has read
26 and fully understands the provisions of California Civil Code § 1542; and (c) she has
27 been specifically advised by her counsel of the consequences of the above waiver
28 and this Agreement generally.

14. Plaintiff agrees not to sue or file a charge, complaint, grievance, demand for arbitration, or other proceeding against the Released Parties in connection with the Released Claims in any forum or assist or otherwise participate willingly or voluntarily in any claim, arbitration, suit, action, investigation or other proceeding of any kind which relates to any matter that involves the Released Claims, unless required to do so by court order, subpoena or other directive by a court, administrative agency, arbitration panel or legislative body, or unless required to enforce this Agreement. To the extent any such claim, arbitration, suit, action, investigation or other proceeding may be brought by a third party, Plaintiff expressly waives any claim to any form of monetary or other damages, or any other form of recovery or relief in connection therewith, except for statutorily required witness fees.

TERM

15. The term of this Consent Decree shall commence as of the Effective Date and remain in effect and expire by its own terms at the end of: (1) thirty-six (36) months from the Effective Date; or (b) the date, if any, that the United States Department of Justice adopts regulations for websites under Title III of the ADA (the "Expiration Date").

GENERAL NONDISCRIMINATION REQUIREMENTS

16. Pursuant to the terms of this Consent Decree, Defendant:

- a. shall use Reasonable Efforts not to deny persons with a disability (as defined under the ADA), including the Plaintiff, the opportunity to participate in and benefit from the goods, services, privileges, advantages, and accommodations through the Website as set forth herein;
- b. shall use Reasonable Efforts to provide persons with a disability (as defined under the ADA), including the Plaintiff, an equal opportunity to participate in or benefit from the

1 goods, services, privileges, advantages, and accommodations
2 provided through the Website as set forth herein; and
3 c. shall use Reasonable Efforts to ensure that persons with a
4 disability (as defined under the ADA), including the Plaintiff,
5 are not excluded, denied services, segregated, or otherwise
6 treated differently because of the absence of auxiliary aids and
7 services, through the Website as set forth herein.

8 COMPLIANCE

9 17. Web Accessibility Conformance Timeline: Defendant shall use
10 Reasonable Efforts to ensure full and equal enjoyment of the goods, services,
11 privileges, advantages, and accommodations provided by and through the Website
12 (including all pages therein), including websites (including all pages therein and
13 linked to therefrom) that can be navigated to or from the Website or which when
14 entered reroute to the Website (collectively the “Websites”), according to the
15 following timeline and requirements provided that the following dates will be
16 extended in the instance that the United States Department of Justice issues
17 regulations for websites under Title III of the ADA while this Consent Decree is in
18 effect and which contain compliance dates and/or deadlines further in the future than
19 the dates set forth herein:

20 a. Within twelve (12) months of the Effective Date, Defendant
21 shall ensure that the Website, if in existence, substantially
22 conforms in all material respects to the Web Content
23 Accessibility Guidelines 2.1 Level A and AA Success Criteria
24 (“WCAG 2.1 AA”), published by the Web Accessibility
25 Initiative of the World Wide Web Consortium (“W3C”) in
26 such a manner so that the Website will be accessible to persons
27 with disabilities. Should Congress, the Department of Justice,
28 or the United States Supreme Court issue a ruling or final

1 regulations (as applicable) adopting a legal standard for
2 website accessibility that is different from the WCAG 2.1,
3 Defendant shall have the option of substantially complying in
4 all material respects with such legal standard in its sole and
5 absolute discretion.

6 b. In achieving such conformance, Defendant may, among other
7 things, rely upon, in whole or in part, the User Agent
8 Accessibility Guidelines (“UAAG”) 1.0; the Authoring Tool
9 Accessibility Guidelines (“ATAG”) 2.0; and the Guidance on
10 Applying WCAG 2.1 to Non-Web Information and
11 Communications Technologies (“WCAG2.1ICT”), published
12 by the W3C; or any combination thereof. If Defendant, in
13 reasonably relying upon any of the foregoing, fails to achieve
14 substantial conformance with WCAG 2.1 AA, Defendant will
15 have nonetheless met its obligations under this Consent
16 Decree.

17 c. If Defendant’s ability to meet the deadline for compliance is
18 delayed by third-party vendors, acts of God, force majeure or
19 other reasons that are outside of Defendant’s control, the
20 Parties’ respective counsel shall meet and confer regarding an
21 extended deadline. If the Parties disagree regarding an
22 extended deadline after the meet-and-confer, either Party will
23 have the right to seek judicial relief.

24 d. Defendant shall not be responsible for ensuring that third party
25 content, advertisements, websites and/or plug-ins that are not
26 owned by Defendant, but are otherwise located on the Website
27 or linked to or from the Websites are accessible or otherwise
28 conform to WCAG 2.1 AA.

SPECIFIC RELIEF TO PLAINTIFF

18. Specific Relief: Plaintiff and Defendant have agreed to settle all matters relating to costs, damages, attorneys' fees, experts' fees, other financial matters, relating to any alleged inaccessibility of the Website through a separate agreement (the "Confidential Addendum"), the remedial portions of which are hereby incorporated by reference into this Consent Decree but not publicly filed. This Consent Decree, together with the Confidential Addendum referenced in this Paragraph 18, constitutes the entire agreement between the Parties on the matters of injunctive relief and damages, attorney fees, litigation expenses and costs, and no other statement, promise, or agreement, either written or oral, made by any of the Parties or agents of any of the Parties, that is not contained in this written Consent Decree, shall be enforceable regarding the matters described herein.

PROCEDURES IN THE EVENT OF DISPUTES

19. Prior to the Expiration Date, if a party believes that the other party hereto has not complied in all material respects with any provision of the Consent Decree, that party shall notify the alleged non-complying Party in writing of such non-compliance and afford the alleged non-complying Party thirty (30) days to remedy the non-compliance or satisfy the complaining Party that the alleged non-complying Party will comply within a certain period of time. If the alleged non-complying Party has not remedied the alleged non-compliance or satisfied the complaining Party that it has complied within that time, the Parties shall meet and confer regarding the non-compliance. If the Parties are unable to resolve the issue(s), the complaining Party may apply to the Court for appropriate relief. The Court may order appropriate relief should it determine that either Party has not complied with this Decree. Any notice or communication required or permitted to be given to the Parties hereunder shall be given in writing by e-mail and by overnight express mail or United States first class mail, addressed as follows:

1 For PLAINTIFF:

Joseph R. Manning, Esq.
Manning Law, APC
4667 MacArthur Blvd., Suite 150
Newport Beach, CA 92660
Tel: 949-200-8755
Email:
adapracticegroup@manninglawoffice.
com

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6 For DEFENDANT:

Robert B. Bader, Esq.
Sacks, Ricketts & Case LLP
177 Post Street, Suite 650
San Francisco, CA 94108
Tel: 415-504-3148
Email: rbader@srclaw.com

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10 MODIFICATION

11 20. No modification of this Consent Decree shall be effective unless in
12 writing and signed by authorized representatives of all Parties.

13 ENFORCEMENT AND OTHER PROVISIONS

14 21. The interpretation and enforcement of this Consent Decree shall be
15 governed by the laws of the State of California.

16 22. This Consent Decree contains the entire agreement of the Plaintiff and
17 the Defendant concerning the subject matter described in Paragraph 2, other than the
18 terms of the Confidential Addendum, and no other statement, promise, or agreement,
19 either written or oral, made by any party or agent of any party, that is not contained
20 in this Consent Decree, and concerns the subject matter described in Paragraph 2,
21 shall be enforceable, other than the Confidential Addendum.

22 23. If any provision of this Consent Decree is determined to be invalid,
23 unenforceable, or otherwise contrary to applicable law, such provision shall be
24 deemed restated to reflect as nearly as possible and to the fullest extent permitted by
25 applicable law its original intent and shall not, in any event, affect any other
26 provisions, all of which shall remain valid and enforceable to the fullest extent
27 permitted by applicable law.
28

1 PERSONS BOUND AND INTENDED THIRD-PARTY BENEFICIARIES

2 24. The Parties to this Consent Decree expressly intend and agree that this
3 Consent Decree shall inure to the benefit of all persons with vision disabilities as
4 defined by the ADA, including those who utilize a screen reader to access the
5 Website, which disabled persons shall constitute third-party beneficiaries to this
6 Consent Decree.

7 25. The signatories represent that they have the authority to bind the
8 respective parties, Plaintiff and Defendant to this Consent Decree.

9 CONSENT DECREE HAS BEEN READ

10 26. This Consent Decree has been carefully read by each of the Parties, and
11 its contents are known and understood by each of the Parties. This Consent Decree
12 is signed freely by each party executing it. The Parties each had an opportunity to
13 consult with their counsel prior to executing the Consent Decree.

14
15 PLAINTIFF

16
17 Dated: 2/19/2019

By: 
50C26FE5E4AA436

18
19 DEFENDANT

20
21 Dated:

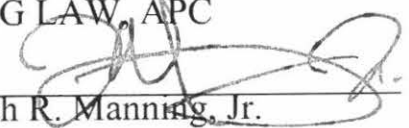
By: _____

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23 Its: _____

1 APPROVED AS TO FORM AND CONTENT:

MANNING LAW, APC

2
3 Dated: 2-19-2019

By: 
Joseph R. Manning, Jr.

Attorneys for Plaintiff

SACKS, RICKETTS & CASE LLP

6
7 Dated: _____

By: _____
Robert B. Bader, Esq.

Attorneys for Defendant

1 APPROVED AS TO FORM AND CONTENT:

2 MANNING LAW, APC

3 Dated: _____

4 By: _____
Joseph R. Manning, Jr.

5 Attorneys for Plaintiff

6 SACKS, RICKETTS & CASE LLP

7 Dated: 2/19/19

8 By: _____
Robert B. Bader, Esq.

9 Attorneys for Defendant

**COURT APPROVAL, ADOPTION, AND ENTRY OF THE CONSENT
DECREE**

THE COURT, HAVING CONSIDERED the pleadings, law, underlying facts and having reviewed this proposed Consent Decree,

FINDS AS FOLLOWS:

1) This Court has personal jurisdiction over Plaintiff and Defendant for the purposes of this lawsuit pursuant to 28 U.S.C. §§ 1332;

2) The provisions of this Consent Decree shall be binding upon the Parties;

3) Entry of this Consent Decree is in the public interest;

4) This Consent Decree is for settlement purposes only and does not constitute an admission by Defendant of any of the allegations contained in the Complaint or any other pleading in this lawsuit, nor does it constitute any finding of liability against Defendant; and

5) This Consent Decree shall be deemed as adjudicating, once and for all, the merits of each and every claim, matter, and issue that was alleged, or could have been alleged by Plaintiff based on, or arising out of, or in connection with, the allegations in the Complaint.

NOW THEREFORE, the Court approves the Consent Decree and in doing so specifically adopts it and makes it an Order of the Court.

SO ORDERED:

U.S.D.J.